

COMMUNIQUE

Newsletter of the
New Zealand Architects Co-operative Society Ltd

April 2008

CHAIRMAN'S COLUMN – Hamish Wixon writes

As previously reported *NZACS* took part in a strategic planning session last year to focus on issues and direction for the Board. Following on from this strategic planning meeting the Society has been forging closer ties with kindred organisations.

As part of this direction a meeting was arranged in December 2007 between *NZACS*, *NZRAB* and *NZIA* attended by Hamish Wixon, Barry Dacombe, Ron Pynenburg and Ian Athfield. All of these organisations have common interests in promoting and supporting architects. Topics for discussion included the Building Act, Weathertight Homes, Continuing Professional Development, the Architects Act and Architects Practice.

As you can imagine there was lively debate on these topics and it was gratifying to see the work being done by *NZIA* and *NZRAB*.

One of the issues touched upon at the meeting was the question of architect's competence and the nature of complaints being received by *NZRAB*. Naturally, this was an area of considerable interest to both *NZACS* and *NZIA* given their respective roles to the architectural profession.

It appears from experience, the majority of complaints received relate to sole practitioners, not necessarily relating to their technical competence but rather a break down in communications resulting in increased and unexpected costs to the client. Usually this was brought about by sloppy management resulting from a "she'll be right" attitude demonstrated by the architect

As *NZACS* is involved with risk management strategies we cannot stress too strongly the importance of having sound management regimes in place and operating. Further we urge Members to continue to attend appropriate CPD programmes to assist in maintaining your competence while also achieving necessary CPD points.

NZACS is keen to support and work in with *NZIA* and *NZRAB* to the benefit of all architects; such was the success of the meeting. It has been decided that a repeat meeting should be held every year.

PSBG KIWISAVER – NZACS Support

Members will have received the March Newsletter of the *PSBG* (Professionals Superannuation and Benefits Group) promoting *PSBG* as a KiwiSaver scheme provider and offering detailed information regarding KiwiSaver. This promotion is timely given that from 1 April 2008 it is compulsory for employers to start contributions to an employee's KiwiSaver account.

NZACS supports *PSBG* as a provider for the KiwiSaver Scheme and also as a superannuation provider as well. It will be noted from their newsletter that in the ten years to 31 March 2007 there has been a 76% after tax growth in the *PSBG* Fund. This is a quite remarkable achievement. In fact, given that record, it could be very worthwhile for Members to consider investing some superannuation dollars in *PSBG* as well.

Why does *NZACS* support *PSBG*? *NZACS* supports *PSBG* because it was one of the three organisations which sponsored its formation back in 1975, along with similar societies representing Engineers and Land Surveyors. *NZACS* nominates two directors to the Management Board. Currently the *NZACS* nominees are Colin Orchiston of Wellington, and Peter Mills of Christchurch. The Website address for full information is: www.psbg.co.nz

NZACS 'PRACTICE SURVIVAL' SEMINAR SERIES – Up coming

As Members are well aware Gisborne is the first city in the world to see the sunrise on a new day. Gisborne was in fact the first city in which Barry Dacombe's new *Risk Management* seminar was presented on 29 February 2008. This presentation coincided with the first Directors meeting for the year. It is the Boards' policy to move their meetings around the country, from time to time, in order to meet Members and to bring seminars to locations which do not normally receive them.

It is the intention, during the coming year, for Barry to present this seminar at various centres around the country, depending upon his availability and travel arrangements. The *NZACS* Annual Meeting will be held in Dunedin on *Friday 27 June* and the seminar will be presented in association with this meeting. So keep an eye out for advice as to when Barry is presenting in your area.

What does the Seminar Cover?

Given its title "Practice Survival – Managed or Mitigated" the seminar contains sound advice and risk management strategies for all practitioners operating a business. However, as each practitioner's circumstances will be different, Barry makes it abundantly clear the advice is general only and to implement any particular business structures or other measures outlined, then each practitioner should seek their own expert advice.

Issues covered include:

Responsibilities and Liabilities under the Legal System.

Architects Liability

Under Contract

- Breach of Contract
- Breach of duty of care owed under contract

Tort of Negligence

- Failure to exercise reasonable skill and care to a standard expected of a similarly qualified and experienced architect, and
- Owed to a class of people whom the Architect ought reasonably contemplate being affected by the advice or actions.

Liability in Time

Under Contract – an action must be brought within

- 6 years from the date of the breach
- 12 years from the date of the breach if signed under deed

Under Tort

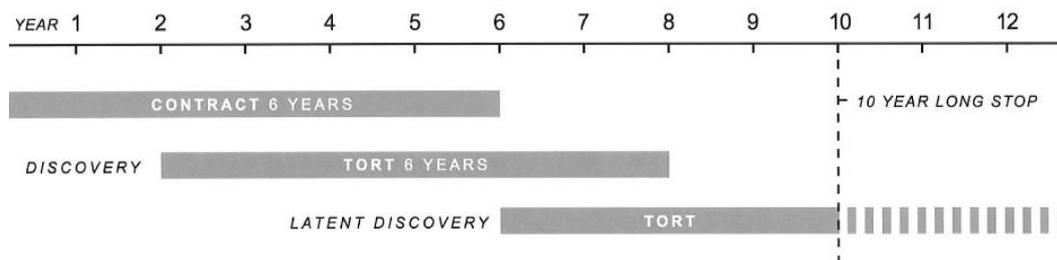
- 6 years from the date on which the cause of action accrued
- 6 years from the date on which the negligent act/omission ought reasonably to have been discovered.

Under the Building Act 2004 (s 393)

- Civil proceedings relating to building work may not be brought after 10 years or more from the date of the act or omission
- This is referred to as the 10 year long stop

Limitation of Liability in Time

LIMITATION OF LIABILITY IN TIME



Having established where an architect's liability arises, and it is worth repeating and reminding you of them, the seminar content then moves on to look at how those responsibilities and potential liabilities may be mitigated.

Topics then covered include:

Limitation of Liability in Quantum
Practitioner's Responsibilities
Staff Architect Exposure
Sole Practitioner Exposure
Company Exposure
Estate Planning

Agreement for Architects Services
Managing Exposure to Claims
Risk Management Practices
Partnership Exposure
Succession Exposure
Disaster Protection

The Exposures, as listed above, are discussed with some risk management strategies offered as to how they may be mitigated.

So watch out for this most relevant seminar by Barry Dacombe when is in your area. Don't Miss It.

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*We welcome contributions from readers,
on how they manage risk.*